

108TH CONGRESS
1ST SESSION

S. 284

To amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services and the Foreign Service in determining the exclusion of gain from the sale of a principal residence.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 4, 2003

Mr. MCCAIN introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services and the Foreign Service in determining the exclusion of gain from the sale of a principal residence.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. EXCLUSION OF GAIN FROM SALE OF A PRIN-**
4 **CIPAL RESIDENCE BY A MEMBER OF THE**
5 **UNIFORMED SERVICES OR THE FOREIGN**
6 **SERVICE.**

7 (a) IN GENERAL.—Subsection (d) of section 121 of
8 the Internal Revenue Code of 1986 (relating to exclusion

1 of gain from sale of principal residence) is amended by
 2 redesignating paragraph (9) as paragraph (10) and by in-
 3 serting after paragraph (8) the following new paragraph:

4 “(9) MEMBERS OF UNIFORMED SERVICES AND
 5 FOREIGN SERVICE.—

6 “(A) IN GENERAL.—At the election of an
 7 individual with respect to a property, the run-
 8 ning of the 5-year period described in sub-
 9 sections (a) and (c)(1)(B) and paragraph (7) of
 10 this subsection with respect to such property
 11 shall be suspended during any period that such
 12 individual or such individual’s spouse is serving
 13 on qualified official extended duty as a member
 14 of the uniformed services or of the Foreign
 15 Service of the United States.

16 “(B) MAXIMUM PERIOD OF SUSPENSION.—
 17 The 5-year period described in subsection (a)
 18 shall not be extended more than 10 years by
 19 reason of subparagraph (A).

20 “(C) QUALIFIED OFFICIAL EXTENDED
 21 DUTY.—For purposes of this paragraph—

22 “(i) IN GENERAL.—The term ‘quali-
 23 fied official extended duty’ means any ex-
 24 tended duty while serving at a duty station
 25 which is at least 50 miles from such prop-

erty or while residing under Government orders in Government quarters.

“(ii) UNIFORMED SERVICES.—The term ‘uniformed services’ has the meaning given such term by section 101(a)(5) of title 10, United States Code, as in effect on the date of the enactment of this paragraph.

“(iii) FOREIGN SERVICE OF THE UNITED STATES.—The term ‘member of the Foreign Service of the United States’ has the meaning given the term ‘member of the Service’ by paragraph (1), (2), (3), (4), or (5) of section 103 of the Foreign Service Act of 1980, as in effect on the date of the enactment of this paragraph.

“(iv) EXTENDED DUTY.—The term ‘extended duty’ means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.

“(D) SPECIAL RULES RELATING TO ELECTION.—

“(i) ELECTION LIMITED TO 1 PROPERTY AT A TIME.—An election under sub-

1 paragraph (A) with respect to any property
 2 may not be made if such an election is in
 3 effect with respect to any other property.

4 “(ii) REVOCATION OF ELECTION.—An
 5 election under subparagraph (A) may be
 6 revoked at any time.”.

7 (b) EFFECTIVE DATE; SPECIAL RULE.—

8 (1) EFFECTIVE DATE.—The amendments made
 9 by this section shall take effect as if included in the
 10 amendments made by section 312 of the Taxpayer
 11 Relief Act of 1997.

12 (2) WAIVER OF LIMITATIONS.—If refund or
 13 credit of any overpayment of tax resulting from the
 14 amendments made by this section is prevented at
 15 any time before the close of the 1-year period begin-
 16 ning on the date of the enactment of this Act by the
 17 operation of any law or rule of law (including res ju-
 18 dicata), such refund or credit may nevertheless be
 19 made or allowed if claim therefor is filed before the
 20 close of such period.

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